IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SIXTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION NO : 87 of 1998

Between:

Syed Shahabuddin Quadri, s/o Syed Qutubuddin Quadri, aged about 60 years, Resident of Hyderabad.

..... PETITIONER

AND

1 The Chief Executive Officer, A.P. State Wakf Board, Hyderabad.
2 The President & Managing Committee, Masjid Kale-Mulla, Tappa Chabutra, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly in the nature of MANDAMUS declaring the inaction on the part of the respondents in converting the burial ground published in the Gazette 17-5-1984 at Sl.No.561, Khabrastan situated at Tappa Chabutra into a commercial complex is illegal, arbitrary, capricious, malafide and contrary to the object of wakfs, and the provisions of the wakf Act of 1995.

For the Petitioner: MR.M.SUBBA REDDY, S.C. for Wakf Board

For the Respondent No.1: Mr. A.M. Qureshi, S.C. for Wakf Board

For the Respondent No.2: None appeared

The Court made the following :

ORAL ORDER

This Writ Petition is filed questioning the arbitrary action of 2nd respondent in converting the burial ground published in the Gazette dated 17.05.1984 at Sl. No. 561, Khabrastan, situated at Tappa Chabutra into a commercial complex, as illegal, arbitrary and capricious.

The petitioner's contention is that an old Muslim burial ground was registered as a wakf institution and the same was published in the Gazette dated 17th May, 1984 and the same is locally known as 'Qutub Ka Kabhastaan' and there is a Dargah of saint Syed Qutubuddin Shah Quadri and the petitioner is one of the followers of the saint. The further contention of the petitioner is that he is very much interested in the said Dargah and he has a right to worship in the said Dargah. Be that as it may, the 2nd respondent, which is styling itself as the Managing Committee of the said Masjid, is making illegal constructions of shops and the same is purely contrary to law and the wishes of several Muslims residing in the area. It is his further contention that though he brought the same to the notice of the

concerned officials, they have not initiated any action and as such he was constrained to approach this Court and filed the present writ petition.

When the matter was admitted, a learned Single Judge of this Court was pleased to grant interim direction directing the respondents not to make any constructions or allow others to make any constructions.

Heard the learned counsel for the petitioner as well as the Standing Counsel for 1st respondent-Wakf Board.

From an array of events put forth by the respective counsel and also from a perusal of the material papers, it is clear that the burial ground situated at Ward No.13, Block No.5 of Tappachabutra is registered as a wakf institution and 2nd respondent though styled as a committee was not recognized by the Wakf Board. The fact that 2nd respondent is not recognized by the Wakf Board is clear from the letter dated 08-12-1997 addressed by the Inspector Auditor of Wakfs to the Chief Executive Officer, A.P. Wakf Board, Hyderabad. When once it is not registered or recognized by the Wakf Board, it is not known as to how the 2nd respondent is trying to proceed with the constructions contrary to the wishes of the Muslims and the Wakf Board. Hence, I am of the view that the said action on the part of 2nd respondent is clearly illegal and arbitrary and accordingly I direct the 2nd respondent not to convert the said burial ground into a commercial complex.

This writ petition is accordingly allowed. No costs.

6th December, 2004

vp

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this the sixth day of December, two thousand and four.

Asst. Registrar

To

1. The Chief Executive Officer, A.P. State Wakf Board, Hyderabad,
2. The President and Managing Committee, Masjid Kale-Mulla, Tappa chabutra, Hyderabad
3. 2 C.D. copies.